

Arguments/Remarks

Claims 18 to 42 are now pending.

As described below, claims 1 to 17 have been withdrawn, and 1 and 4 to 17 amended.

Claims 18 to 23 pertain to elected Group III.

Applicants request rejoinder of the claims 24 to 42 to Group III.

Claims 24 to 28 and 35 to 42 have also been amended. No new matter has been added in any claim amendment.

Requirement for Unity of Invention and Election/Restriction

As detailed in the current Office Action, the claims of the present application have been divided into the following groups:

Group I: Claims 1 to 3.

Group II: Claim 17.

Group III: Claims 18 to 23.

Group IV: Claims 29 to 31.

Group V: Claims 32-34.

Restriction was required under 35 U.S.C. 121 and 372.

Applicants elect Group III, with traverse, as described below.

Groups I and II (non-elected)

Claims 1 to 17 have been withdrawn as directed to non-elected Groups I and II.

Claims 1, 16 and 17 have been amended to correct obvious spelling and other errors.

Claims 4 to 16 had not been treated on the merits, because the Office had determined them to be in improper form under 37 CFR 1.75 (c). These claims were allegedly in improper form because a multiple-dependent claim cannot depend from another multiple-dependent claim. The form of these withdrawn claims has also been corrected. As these claims all depend from the claims of Group I, rejoinder of claims 4 to 16 to those of non-elected Group I is requested.

Group III (elected)

Claims 18 to 23 pertain to elected Group III. Minor amendment have been made to claims 18, 19, 21 and 22. Support for the amendment to claim 18 can be found in paragraphs [0072] and [0076] of the Specification.

Claims 24 to 28 had also not been treated on the merits, as the Office had determined them to be in improper form under 37 CFR 1.75 (c). The form of these claims has been

corrected. Applicants respectfully request that these claims, being dependent from the claims of Group III, be treated on the merits and included in Group III.

Applicants thus request consideration on the merits of claims 18 to 28.

Groups IV and V (non-elected)

Claims 29 to 31 pertain to non-elected Group IV. Claim 29 has been amended. Support for the amendment to claim 29 can be found in paragraphs [0072] and [0075] of the Specification.

Claims 35 to 42 depend from the claims of Group IV. These claims had not been treated on the merits, as the Office had determined them to be in improper form under 37 CFR 1.75 (c). The form of these claims has been corrected, along with additional minor amendments. Rejoinder of these claims with those of Group IV is respectfully requested.

Claims 32 to 34 pertain to non-elected Group V.

Applicants respectfully request reconsideration of the Election/Restriction under 35 U.S.C. 121 and 372. Applicants respectfully request that the claims of Groups IV and V be rejoined to those of Group III. Group III pertains to the manufacture of a medicament for treating a disease associated with deregulated angiogenesis, wherein the polypeptide is fibroblast growth factor 23 (FGF-23), a fragment thereof, a bioactive polypeptide with at least 95% amino acid identity with FGF-23 or the fragment, or a bioactive variant of FGF-23 or the fragment. Groups IV and V pertain to methods of treating a disease using the same polypeptides as defined in Group III. Groups III, IV and V all share the common feature of relating to the same group of polypeptides.

Thus Applicants further request consideration on the merits of claims 29 to 42.

Species Election #1

The Office has also alleged that the application contains claims directed to more than one species of the generic invention.

The Office has stated that, should Group III be elected, Applicants are required to choose a disease from among the species listed as a to k in the Office Action.

Applicants have elected Group III and hereby elect species k, tumors or cancer.

However, upon allowance of a generic claim or determination of allowable subject matter, Applicants request consideration and rejoinder of the non-elected species claims pertaining to species a to j.

Species Election #2

The Office has also alleged that the application contains claims directed to more than one species of the generic invention.

The Office has stated that, should Group IV be elected, Applicants are required to choose a disease from among the species listed as 1 to 5 in the Office Action.

Applicants have elected Group III and requested that the claims of Group IV be rejoined to those of Group III. Applicants elect the species 5, tumor.

However, upon allowance of a generic claim or determination of allowable subject matter, Applicants request consideration and rejoinder of the non-elected species claims pertaining to species 1 to 4.

Species Election #3

The Office has also alleged that the application contains claims directed to more than one species of the generic invention.

The Office has stated that, should Group V be elected, Applicants are required to choose a disease from among the species listed as i to viii in the Office Action.

Applicants have elected Group III and requested that the claims of Group V be rejoined to those of Group III. Applicants elect the species viii, tumors.

However, upon allowance of a generic claim or determination of allowable subject matter, Applicants request consideration and rejoinder of the non-elected species claims pertaining to species i to vii.

Conclusions

This is intended as a complete response to the restriction requirement.

Applicants have elected Group III (claims 18 to 23) and requested that claims 24 to 42 be rejoined to those of Group III. Should the Office not accept the request for rejoinder of the claims of Groups IV and V to those of Group III, Applicants request the consideration on the merits of the claims of Group III, along with claims 24 to 28.

If further election is required or if any issues pertaining to the restriction remain outstanding, the Office is invited to telephonically contact the Applicants' representative for immediate resolution.

With respect to any claim amendments or withdrawals, Applicants have not dedicated to the public or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejection and/or objection made by the Patent and Trademark Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Please feel free to contact the below signed person with any issues or questions.

Respectfully submitted,



Frank Wu
Agent for Applicants
Reg. No. 41,386

Novartis Institutes for BioMedical Research, Inc.
220 Massachusetts Avenue
Cambridge, MA 02139
(617) 871-5077

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